

AMENDED IN SENATE MAY 13, 2003
AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 929

Introduced by Senator Speier

February 21, 2003

An act to *amend Sections 12303.2, 12303.3, and 12303.6 of, and to add Section 12313 to, the Penal Code, relating to explosives.*

LEGISLATIVE COUNSEL'S DIGEST

SB 929, as amended, Speier. Explosives.

~~Existing law generally prohibits unauthorized possession of, or the carrying, detonation, or ignition of, destructive devices or explosives, as specified. Violations of these provisions constitute various offenses.~~

~~This bill would provide that each destructive device or explosive would constitute a separate and distinct offense under those provisions.~~

Existing law provides that every person who recklessly or maliciously has in his or her possession any destructive device or any explosive in specified public areas is guilty of a felony, and shall be punishable by imprisonment in the state prison for a period of 2, 4, or 6 years. Existing law provides that every person who possesses, explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to injure, intimidate, or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of 3, 5, or 7 years. Existing law also provides that any person, firm, or corporation who, within this state, sells, offers for sale, or knowingly transports any destructive device, other than fixed ammunition of a caliber greater

than .60 caliber; except as provided, is guilty of a felony and is punishable by imprisonment in the state prison for 2, 3, or 4 years.

This bill would revise those provisions by specifying the prohibited conduct applies to “a” destructive device or “an” explosive, for purposes of committing the relevant offenses.

This bill would also provide that in weighing aggravating and mitigating factors for purposes of sentencing, the court would be required to consider the destructive or explosive power of a device involved in the relevant offense, as specified.

The bill would declare that the amendments are declaratory of existing law.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 12303.2 of the Penal Code is amended*
2 *to read:*

3 12303.2. Every person who recklessly or maliciously has in
4 his *or her* possession~~any~~ a destructive device or~~any~~ an explosive
5 on a public street or highway, in or near any theater, hall, school,
6 college, church, hotel, other public building, or private habitation,
7 in, on, or near any aircraft, railway passenger train, car, cable road
8 or cable car, vessel engaged in carrying passengers for hire, or
9 other public place ordinarily passed by human beings is guilty of
10 a felony, and shall be punishable by imprisonment in the state
11 prison for a period of two, four, or six years.

12 SEC. 2. *Section 12303.3 of the Penal Code is amended to*
13 *read:*

14 12303.3. Every person who possesses, explodes, ignites, or
15 attempts to explode or ignite~~any~~ a destructive device or~~any~~ an
16 explosive with intent to injure, intimidate, or terrify any person, or
17 with intent to wrongfully injure or destroy any property, is guilty
18 of a felony, and shall be punished by imprisonment in the state
19 prison for a period of three, five, or seven years.

20 SEC. 3. *Section 12303.6 of the Penal Code is amended to*
21 *read:*

22 12303.6. Any person, firm, or corporation who, within this
23 state, sells, offers for sale, or knowingly transports~~any~~ a
24 destructive device, other than fixed ammunition of a caliber

greater than .60 caliber, except as provided by this chapter, is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years.

SEC. 4. Section 12313 is added to the Penal Code, to read:

~~12313. For purposes of this chapter, notwithstanding the fact that the term “any explosive” or “any destructive device” may be used in the chapter, each explosive or any destructive device shall constitute a separate and distinct offense pursuant to the provisions of this chapter.~~

12313. In weighing aggravating and mitigating factors and in determining whether to impose concurrent or consecutive sentences for a conviction or convictions under this chapter, the court shall consider the destructive or explosive power of a device or devices involved in the underlying offense or offenses.

~~SEC. 2. Section 12313 as added to the Penal Code by this act is~~

SEC. 5. The amendments made by Sections 1, 2, and 3 of this act are declaratory of existing law.

